

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

AUGUST 23, 2006

AGENCY MEMBERS PRESENT

Koella, Carl, III, Chair
Caldwell, Gene, M.D., Vice Chair
Atchley, Bryan
Gaither, Keith, designee for the TennCare Director
Handorf, Charles, M.D.
Lammert, Gregory
Troy, Peggy
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Jones, Clark
Flowers, Paula, Commissioner of Commerce and Insurance

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant II
Brogden, Reid, General Counsel
Craighead, Alecia, Statistical Analyst III
Christoffersen, Jim, Deputy General Counsel
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Grimm, Jeff, Health Planner III
Wells, Phil, Health Planner III

GUESTS PRESENT

Adams, Ashley
Anderson, Charlie, Bethesda Health Care
Archer, David, CEO, St. Francis Hospital
Arrison, Ron, Executive Director, The King's Daughters and Sons Home
Beard, Jean, Project Manager, High Pointe Health and Rehabilitation Center
Bonner, Gwen, St. Francis Hospital
Bradford, John, Esq., Waller, Lansden, Dortch & Davis
Brent, Michael D., Esq., Boulton, Cummings, Connors & Berry
Brown, Dere, NHC
Cherry, Vince, University Medical Center
Cole, Donald A., MD, Lebanon Endoscopy Center, PLLC
Corritore, Danell, Department of Health
Culp, Joe, Department of Health
Cutler, Ron, Bovis Lend Lease
Duckett, Greg, Sr. VP, Corporate Counsel, Baptist Memorial Hospitals
Duncan, Bruce K., Assistant Vice President, NHC
Elrod, Dan H., Esq., Miller & Martin
Ely, John, Regional Director of Operations, AmSurg Corporation

HEALTH SERVICES AND DEVELOPMENT AGENCY

AUGUST 23, 2006 MEETING

- PAGE 1 -

Evinsky, Reid
Gammon, Katy, Director, Health Facilities, Department of Health
Goff, Tammy, Family Cancer Center
Gooch, Warren, Esq., Kramer & Rayson
Gore, Margaret, MD, Family Cancer Center
Grace, Frank, Jr., Esq., Waller, Lansden, Dortch & Davis
Graves, Kathy, Administrator, Mabry Health Care
Haaga, Sue Ellen, St. Francis Hospital
Harrison-Gyu, Hollye
Hill, Ronald, Vanderbilt University Medical Center
Houchin, Barbara, St. Thomas Health System
Huggins, Mike, THA
Hunter, Lee, MD, Mid Tennessee Bone and Joint Clinic
James, Kent, West Clinic
Jarbee, PJ, AmSurg Surgery Center of Middle Tennessee
Kelly, Kathleen, MD, MidSouth Imaging & Therapeutics
Kircher, Rosemary, VP Clinical Care, Caris Healthcare
Krivada, Paul D., Adams & Reese
Larson, Kent, Life Care Services, LLC
Lintz, Gordon, Baptist Memorial Hospital
Looney, Kim H., Esq., Waller, Lansden, Dortch & Davis
Maples, Arthur, Director Strategic Analysis, Baptist Memorial Health Care
Maxwell, David, HMA-University Medical Center
McCall, Scott, MD, Mid Tennessee Bone and Joint Clinic
Marks-McGraner, Karen
Morrical, Michael, University Medical Center
Munchow, George, Administrator, Applingwood Health Care Center
Obaji, Rola, Family Cancer Center
Ozburn, Tom, Summit
Page, Cecil, Caris Healthcare
Page, Cindy, Caris Healthcare
Parrish, Jeff, THM
Penny, Linda, Comptroller's Office
Pippin, Ann, Bethesda Health Care
Puri, Chris, Esq., Boulton, Cummings, Connors & Berry
Rollins, Sharon, Director of Nursing, Standing Stone Care & Rehab
Rooney, Lee, Bethesda Health Care
Saylor, Paul, VP of Operations, Caris Healthcare
Shari, Rahil, MD
Shrum, Shawna
Stanton, Daniel, Director of Operations, Methodist Healthcare
Stephenson, Kate, Esq., Trauger & Tuke
Stockstill, Todd, MD, Memphis Radiological, P.C.
Stone, Whitney, Adams & Reese
Stoner, Jeremy, Administrator, NHC Healthcare, Cookeville
Tagatz, Jon, Project Manager, Heritage Health Center
Tauer, Kurt, MD, President, The West Clinic
Taylor, Jerry W., Esq., Farris, Mathews, Branam, Bobango, Hellen & Dunlap, PLC
Trauger, Byron, Esq., Trauger & Tuke
Ullery, Judy, President, Rainbow Health & Rehab, LLC
Wellborn, John, Development Support Group
West, W. Steven, Senior Vice President, Methodist Healthcare
West, William H., Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz,
White, R. Brian, Competitive Solutions
Wright, Kelly
York, Michelle, Standing Stone Care & Rehab Center

Chairman Koella, called the meeting to order at 8:30 a.m. in the Meeting Room 12 of Legislative Plaza, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, introduced the new TennCare Director's designee, Keith Gaither, Deputy Chief Network Officer. Ms. Hill instructed that the order of Items E and F on the Agenda, Heritage Health Center, CN0605-033 and Bethesda Health Care Center, CN0605-034 will be switched due to Heritage Health Center, CN0102-011AE being on the General Counsel's Report and both Heritage projects will be presented together.

CONSENT CALENDAR APPLICATION

Ms. Hill summarized the following Consent Calendar applications:

Mr. Lammert recused.

Caris Healthcare, L.P. - (Murfreesboro, Rutherford County) - Project No. CN0606-039

The relocation of the hospice parent office from 2525 Highway 111 N., Suite B, Algood (Putnam County), to 805 S. Church Street, Suite 1, Murfreesboro (Rutherford County). The existing Putnam County office will become a branch office. There will be no change to the existing service area. Project Cost \$181,700.00.

Dan H. Elrod, Esq., representing the applicant, was present to address the Agency. Present in support were: Rosemary Kircher, VP Clinical Care; Paul Saylor, Vice President of Operations; Bruce K. Duncan, Assistant Vice President, NHC; and Cindy Page, Administrator.

Dr. Caldwell moved for approval of the project based on the criteria in Ms. Hill's presentation: 1) Need – The need to relocate the parent agency from a rural county to an urban county within its existing service area is demonstrated due to the need to obtain a higher inpatient reimbursement rate which will be passed through to the inpatient provider. This enhanced reimbursement should enable the agency to provide more access to hospice care; 2) Economic Feasibility – The project is economically feasible as the only cost is the cost of the lease of the building where the parent agency will be located; and 3) The project does contribute to the orderly development of adequate and effective health care because this relocation will enable the agency to obtain better reimbursement rates for inpatient care, which will help ensure that the agency's patients will have access to the inpatient care. The applicant has submitted letters of support from Cookeville Medical Center and Crossville Medical Center. The project does not increase the designated service area of this provider so there is not a duplication of service. Dr. Handorf seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Troy, Atchley, Caldwell, Handorf, Weaver, Gaither, Koella
NAY: None

Cleveland Radiology - (Cleveland, Bradley County) - Project No. CN0606-043

The relocation of the practice's existing three (3)-day-per-week mobile positron emission tomography (PET) service currently named as "Bradley Regional PET Imaging" (CN0306-041A) from the campus of Bradley Memorial Hospital to 2370 North Ocoee Street, Cleveland (Bradley County), TN 37311. Project Cost \$1,764,486.00.

Lebron Lackey, MD, addressed the Agency on behalf of the project and John L. Wellborn, Consultant was present.

Dr. Caldwell moved for approval of the project based on the criteria in Ms. Hill's presentation: 1) Need – The need for the service was demonstrated in the first application (CN0306-041A) and the subsequent modification to a three (3) day per week service; 2) Economic Feasibility – The project is economically feasible as the only real cost is less than \$60,000 due to the need to bring electrical service to a new pole and the installation of underground wiring. The remainder of the cost is due to the fair market value of the PET/CT equipment; and 3) The project does contribute to the orderly development of adequate and effective health care because it is an existing Medicare and TennCare provider. Since it is a relocation of an existing service, there is no duplication of service. Mr. Lammert seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Troy, Atchley, Caldwell, Lammert, Handorf, Weaver, Gaither, Koella

HEALTH SERVICES AND DEVELOPMENT AGENCY

AUGUST 23, 2006 MEETING

- PAGE 3 -

NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Dr. Handorf and Ms. Troy recused

The West Clinic, P.C. - (Memphis, Shelby County) - Project No. CN0602-012

The acquisition of a linear accelerator and initiation of radiation therapy services provided exclusively by the physicians of The West Clinic. Project Cost \$5,597,342.00.

Byron Trauger, Esq., representing the applicant, addressed the Agency. Kurt Tauer, MD, President, spoke on behalf of the project and Reid Evinsky was present.

Speaking in opposition were: Dan H. Elrod, Esq., representing Baptist Memorial Hospital; David Archer, CEO, St. Francis Hospital; W. Steven West, Senior Vice President, Methodist Healthcare; Todd Stockstill, MD, Memphis Radiological, P.C.; Margaret Gore, MD, Family Cancer Center; Kathleen Kelly, MD, MidSouth Imaging & Therapeutics; Kim H. Looney, Esq., representing St. Francis Hospital-Bartlett; Karen Marks McGraner, Radiology Oncology Director, Baptist Memorial Hospital; and Greg Duckett, Sr. VP, Corporate Counsel, Baptist Memorial Hospitals. Daniel Stanton, Director of Operations, Methodist Healthcare was present in opposition.

Mr. Trauger and Dr. Tauer rebutted.

Mr. Elrod, Ms. Looney and Mr. Duckett provided summation for the opposition.

Mr. Trauger provided summation for the applicant.

Mr. Lammert moved for denial of the project based on: 1) Need – The applicant has not conclusively indicated the need in the area. The existing providers are serving the patients adequately; 2) Economic Feasibility – The project's economical feasibility is questioned; and 3) The project does not contribute to the orderly development of adequate and effective health care in the area as a result. Mr. Gaither seconded the motion. The motion CARRIED [5-1-0]. **DENIED**

AYE: Atchley, Caldwell, Lammert, Weaver, Gaither

NAY: Koella

Lebanon Endoscopy Center, PLLC - (Lebanon, Wilson County) - Project No. CN0605-029

The establishment of an ambulatory surgical treatment center (ASTC) limited to endoscopy at a yet to be addressed site at the corner of Franklin Road and South Hartman Drive. The center will include two (2) operating suites. Project Cost \$772,580.00.

Frank Grace, Jr., Esq., representing the applicant, addressed the Agency. Donald A. Cole, MD, spoke on behalf of the project. R. Brian White, Competitive Solutions and Rahil Shari, MD were present in support.

Speaking in opposition of the project were: Dan H. Elrod, Esq., representing University Medical Center; and Vince Cherry, University Medical Center. Present in opposition were: David Maxwell, HMA-University Medical Center, and Michael Morrical, University Medical Center

Mr. Grace rebutted.

Mr. Elrod provided summation for opposition.

Mr. Grace provided summation for the applicant.

Dr. Handorf moved for approval of the project based on: 1) Need – The need has been demonstrated based on current patient volume; 2) Economic Feasibility – The project is economically feasible through financing by commercial loan and real estate leases; and 3) The project does contribute to the orderly development of adequate and effective health care for the improvement of endoscopy services for the patients in Wilson County and they are a TennCare provider. Dr. Caldwell seconded the motion. The motion CARRIED [7-1-0]. **APPROVED**

AYE: Troy, Atchley, Caldwell, Lammert, Handorf, Weaver, Koella
NAY: Gaither

Dr. Handorf and Ms. Troy recused.

High Pointe Health and Rehabilitation Center - (Bartlett, Shelby County) - Project No. CN0605-030

The relocation and construction of a replacement facility for an existing 112 bed nursing home from 2491 Joy Lane, Memphis (Shelby County) to Intersection of Germantown Road and Memphis-Arlington Road, Bartlett (Shelby County). Upon licensure of the replacement facility, the nursing home will be transferred to Rainbow Health & Rehab of Memphis, LLC, who will then manage the facility. Project Cost \$5,980,000.00. * These beds are not subject to the 125 nursing home bed pool for 2005-2006.

Jerry W. Taylor, representing the applicant, addressed the Agency. Judy Ullery, President, Rainbow Health & Rehab, LLC spoke on behalf of the project and Jean Beard, Project Manager, was present. Katy Gammon, Director, Health Care Facilities, Department of Health, addressed the Agency regarding inspections.

Speaking in opposition were: Michael Brent, Esq., representing, King's Daughters and Sons Home, and Applingwood Health Care Center; Ron Arrison, Executive Director, The King's Daughters and Sons Home; and George Munchow, Administrator, Applingwood Health Care Center.

Mr. Taylor rebutted.

Mr. Brent provided summation for the opposition.

Mr. Taylor provided summation for the applicant.

Mr. Lammert moved for approval of the project based on: 1) Need – The need is indicated by the charts shown; 2) Economic Feasibility – The project is economically feasible with financing through an operating lease; and 3) The project does contribute to the orderly development of adequate and effective health care in the area. Ms. Weaver seconded the motion. The motion CARRIED [5-0-1]. **APPROVED**

AYE: Atchley, Caldwell, Lammert, Weaver, Gaither
NAY: None
ABSTAINED: Koella

The Surgery Center of Middle Tennessee - (Columbia, Maury County) - Project No. CN0605-031

The relocation of an existing ambulatory surgical treatment center (ASTC) from 101 Berrywood Drive, Columbia (Maury County) to a leased space at an unaddressed site on the west side of James M. Campbell Blvd, Columbia (Maury County). The project will include an increase from two (2) to three (3) operating rooms. Project Cost \$5,748,192.00.

John L. Wellborn, Consultant, representing the applicant, addressed the Agency. Lee Hunter, MD, Middle Tennessee Bone and Joint Clinic and John Ely, Regional Director of Operations, AmSurg Corporation spoke on behalf of the project. Scott McCall, MD, Mid Tennessee Bone and Joint Clinic was present.

Ms. Troy moved for approval of the project based on: 1) Need – The project is needed; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Troy, Atchley, Caldwell, Lammert, Handorf, Weaver, Gaither, Koella
NAY: None

Bethesda Health Care Center - (Cookeville, Putnam County) - Project No. CN0605-034

The construction of a new wing to an existing nursing home and the addition of twenty-four (24) skilled nursing home beds* dually certified for Medicaid and Medicare. The licensed bed complement will increase from 120 to 144. There will be no change in health services. Project Cost \$1,633,021.05. * These beds are subject to the 125 nursing home bed pool for 2005-2006.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency.

Speaking in opposition were: Dan H. Elrod, Esq., representing, NHC; Sharon Rollins, Director of Nursing, Standing Stone Care & Rehab; Kathy Graves, Administrator, Mabry Health Care; and Jeremy Stoner, Administrator, NHC Healthcare, Cookeville. Bruce Duncan, Assistant Vice President, NHC was present.

Ms. Weaver moved for denial of the project based on: 1) Need – There is a lack of need. Nursing homes in the service area provide an adequate supply of skilled nursing beds for the residents; 2) Economic Feasibility – Economic feasibility is not a problem; and 3) The project does not contribute to the orderly development of adequate and effective health care. Dr. Handorf seconded the motion. The motion CARRIED [6-1-1]. **DENIED**

AYE: Troy, Lammert, Handorf, Weaver, Gaither, Koella
NAY: Caldwell
ABSTAINED: Atchley

Heritage Health Center - (Brentwood, Williamson County) - Project No. CN0605-033

The addition of six (6) Medicare certified nursing facility beds* by converting six (6) private rooms to six (6) semi-private rooms. The bed complement will increase from thirty (30) to thirty-six (36) Medicare beds for this continuing care retirement community currently under construction as approved by CN0102-011AE. Project Cost \$16,350.00. * These beds are subject to the 125 nursing home bed pool for 2005-2006.

Frank Grace, Jr., Esq., and Kent Larson, Vice President, Life Care Services, LLC, representing the applicant, addressed the Agency. Present were Ron Culver, Bovis Construction and John Tagatz, Project Manager.

Ms. Troy moved for approval of the project based on: 1) Need – The ratios demonstrate the need; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Troy, Atchley, Caldwell, Lammert, Handorf, Weaver, Gaither, Koella
NAY: None

GENERAL COUNSEL'S REPORT

Heritage Health Center - (Brentwood, Williamson County) - Project No. CN0102-011AE

Request for a four (4) month extension of the expiration date from December 31, 2006 to April 30, 2007. The applicant also requests approval of a cost overrun from the original \$3,690,000 to \$5,058,000. This project was approved on June 27, 2001 for the establishment of a thirty (30) bed Medicare certified skilled nursing facility as part of a continuing care retirement community. Upon approval of the Certificate of Need a 42 month extension of the expiration date to February 1, 2005 was granted. On August 25, 2004 the Agency approved an extension of the expiration date from February 1, 2005 to December 31, 2006.

Frank Grace, Jr., Esq., and Kent Larson, Vice President, Life Care Services, LLC, representing the applicant, addressed the Agency.

Ms. Troy moved for approval of the request for a project cost overrun and to extend the expiration date to June 15, 2006. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Troy, Atchley, Caldwell, Lammert, Handorf, Weaver, Gaither, Koella
NAY: None

Tennessee Southern Sports Medicine Surgery Center - (Mt. Juliet, Wilson County) - Project No. CN0411-103D

Staff's request for permission not to oppose Tennessee Sports Medicine Surgery Center's motion for Summary Judgment. University Medical Center has resolved its opposition with agreed limitations on the Certificate of Need from the contested case and the numbers in the service area have increased since the agency heard the application in February 2005 and staff believes under the circumstances that the motion should not be opposed. The motion will be ultimately decided by the Administrative Law Judge.

William H. West, Esq., representing the applicant was present.

There was no objection to the request.

OTHER BUSINESS

- 1) Policy Discussions – Conditions

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

The minutes of the July 26, 2006, meeting was accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab